

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

---

FRANCIS JAMES KEARNS,

Petitioner,

v.

OHIO ADULT PAROLE  
AUTHORITY,

Respondent.

---

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

CASE NO. 5:22-cv-00390

OPINION & ORDER  
[Resolving Docs. [3](#), [4](#), [8](#), [10](#)]

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

Plaintiff Francis James Kearns brings this habeas corpus action under 28 U.S.C. § 2254, challenging actions of the Ohio State Board of Parole (“Respondent”). Respondent filed a motion to dismiss,<sup>1</sup> and Kearns opposes it.<sup>2</sup> Kearns also filed motions for temporary restraining orders and a motion for entry of judgment on these motions.<sup>3</sup> Respondent opposes the latter motion.<sup>4</sup>

On December 28, 2022, Magistrate Judge Knapp filed a Report and Recommendation (“R & R”) recommending that the Court (1) grant Respondent’s motion to dismiss, (2) dismiss without prejudice Kearns’ petition, (3) equitably toll the AEDPA statute of limitations for the claim raised in the Petition within certain specified parameters, and (4) deny without prejudice as MOOT Kearns’ motions for injunctive relief.<sup>5</sup>

Plaintiff did not file an objection to the R & R.

---

<sup>1</sup> Doc. [8](#).

<sup>2</sup> Doc. [9](#).

<sup>3</sup> Docs. [3](#), [4](#), [10](#).

<sup>4</sup> Doc. [11](#).

<sup>5</sup> Doc. [12](#).

Case No. 5:22-cv-00390  
GWIN, J.

The Federal Magistrates Act requires district courts to conduct a de novo review only of objected-to portions of an R & R.<sup>6</sup> Absent objection, district courts may adopt an R & R without review.<sup>7</sup>

So, the Court **ADOPTS** Magistrate Judge Knapp's R & R, **GRANTS** Respondent's motion to dismiss, and **DENIES** Kearns' habeas corpus petition and motions for injunctive relief.

IT IS SO ORDERED.

Dated: March 31, 2023

*s/ James S. Gwin*  
\_\_\_\_\_  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

---

<sup>6</sup> 28 U.S.C. § 636(b)(1).

<sup>7</sup> *Thomas v. Arn*, 474 U.S. 140, 149–52 (1985). Failure to timely object may waive a party's right to appeal the district court's order adopting the R & R. *Id.* at 155; *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981).